



BITTERROOT WATER PARTNERSHIP

Daniel Pliley, District Ranger
West Fork Ranger District
6735 West Fork Road
Darby, MT 59829

September 11, 2026

Re: Comments and concerns regarding US Critical Materials Corp., Sheep Creek
Exploration Project, Plan of Operations, and need for Environmental Assessment

Dear Ranger Pliley,

For 33 years, the Bitterroot Water Partnership has worked for the waters, wildlife, and people that make the Bitterroot Valley extraordinary. Our community programs and restoration partnerships empower people of the Bitterroot to sustain clean, flowing waters, healthy habitats, and a productive, vibrant Valley.

We are grateful for the opportunity to comment to the Bitterroot National Forest on U.S. Critical Materials' (USCM) Plan of Operations for the Sheep Creek Exploration Project. We urge you to conduct an Environmental Assessment for the Project.

Through decades of experience working in and for this Valley, we know that clean, abundant water is vital to the people, wildlife and economy of the Bitterroot. Our waters are the very foundation for our quality of life, and central to economies that depend on healthy fish and wildlife. As examples, 1,400 Valley farms and ranches support thousands of families, provide food security for our country and generate \$41 million in annual sales. Tourism and recreation generate nearly \$67 million and 746 jobs.

The location of the Sheep Creek Exploration Project is not a distant, isolated area, disconnected from waters, wildlife and the people of the Bitterroot. Quite the opposite: it lies in the absolute headwaters of the West Fork of the Bitterroot River, where clean water starts, and flows downstream to Painted Rocks Reservoir and ultimately the Bitterroot River. Painted Rocks stores more than 10 billion gallons of the Valley's cleanest water, supporting irrigated agriculture and instream flow for fisheries. What happens at Sheep Creek will not stay there. Potential impacts would travel downstream, through tens of thousands of people whose families and businesses depend on clean water.

In addition, the USDA identifies "extraordinary circumstances" that may preclude the use of a categorical exclusion. There are many in the Plan, which we detail in our comments, including:

- **Federally listed threatened or endangered species or designated critical habitat or species proposed for Federal listing or proposed critical habitat.** *ESA-listed bull trout are abundant in the West Fork.*

- **Flood plains, wetlands, or other such sensitive areas.** *The West Fork of the Bitterroot River, and its headwaters (site of proposed activities) host sensitive riparian areas that could be affected by changes in hydrology, surface water pollution, and increased sedimentation stemming from proposed actions.*
- **Special sources of water, such as sole-source aquifers, wellhead protection areas, municipal watersheds, or other water sources that are vital in a region.** *Painted Rocks Reservoir stores precious freshwater for irrigation and fisheries, and the West Fork of the Bitterroot River supports communities downstream.*

As questions about proposed operations at Sheep Creek grew, the Water Partnership and other local leaders contacted USCM for information. These requests went unanswered. Due to the lack of response, the Ravalli County Commissioners hosted a public meeting last December – attracting an astonishing 700 Valley residents; not one spoke in favor of the proposal. Following the meeting, the Commissioners voted unanimously to formally oppose any effort to Fast-Track the project. Given ongoing lack of transparency from and trust with USCM, Commissioners have updated their position to ‘unequivocally oppose’ the proposal.

At the meeting, USCM’s representative acknowledged its “negligent” approach with residents and committed to full transparency, including sharing project data and “...baseline and continuous monitoring of water, air, and wildlife.” Now their Plan asserts, without data, that baseline monitoring isn’t needed and includes none of the commitments that USCM made to the Commissioners and the public in December. The future of the Bitterroot deserves more than a “just trust us” from a company that has repeatedly given us every reason not to.

Finally, we request that you amend the [Project Description](#). As it reads, the only impact-related language states the project “is expected to result in less than one acre of total surface disturbance.” This language misrepresents the situation because the operational footprint of the project could have significant, and potentially profound, impacts on the entire Valley.

Sincerely,



Heather Barber
Executive Director

Cc: Governor Gianforte
Montana Congressional Delegation
U.S. Critical Materials

Our comments emphasize the following:

1. *The Draft Plan of Operations (the Plan) lacks the details required* to assess how the resources we care about, and that the Forest Service is obligated to manage on our behalf, might be impacted. An EA, combined with other standards applied by the Forest, can appropriately uncover these details and inform the true, best management practices USCM must uphold during exploration activities.
2. *There are a number of extraordinary circumstances* that should prevent the Forest from reviewing this Plan under a Categorical Exclusion.
3. *The extraordinary scale of public controversy* around US Critical Materials' crude attempt to conduct exploration in the headwaters of the West Fork warrants that the Bitterroot National Forest operate within their discretion to require an Environmental Assessment for this draft Plan.
4. *The proposed Plan does not satisfy the submittal requirements of 36 C.F.R. 228.4*, as it contains vague and unsupported descriptions of proposed operations. Also, as discussed herein, the Plan does not satisfy the strict environmental protection requirements of 36 C.F.R. 228.8 (e.g., requiring protection of water quality, fisheries and wildlife habitat, and other natural and public resources).

Incorporation and Support of Other Comments.

BWP incorporates by reference, and expressly supports, the substantive comments and concerns raised in the comment letters submitted to the Forest Service by:

- Montana Trout Unlimited, August 14
- The Ravalli County Board of Commissioners, August 13
- Ravalli County Economic Development Authority, August 21
- Clark Fork Coalition, September 11
- American Rivers, September 11
- Ravalli County Fish and Wildlife, September 9
- Bitterroot Valley Chamber of Commerce, August 26
- Friends of the Bitterroot, August 5 and September 11
- Bitterroot River Protection Association, August 24
- Montana Wildlife Federation, September 11
- Dr. Philip Ramsey, September 10
- Wild Montana, August 27

to the extent those comments address the proposed Sheep Creek project and are consistent with the positions stated herein. BWP requests the BNF consider those comments as part of the administrative record for this project.

BWP expressly joins and adopts the following particular key concerns and suggested amendments raised in those comments.

Need for an Environmental Assessment

The Forest Service stated they are reviewing the Sheep Creek Exploration Project under a Categorical Exclusion (CE)-32, at 7 C.F.R. § 1b.4(d)(32). This was a slightly revised and repromulgated version of CE-8, 36 C.F.R. § 220.6(e). This CE is limited to "[s]hort-term (1 year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than 1 mile of low standard road, or use and minor repair of existing roads," 7 C.F.R. § 1b.4(d)(32). Based on the submitted Plan of operations, and agency mining regulations, the Project cannot fit under any applicable Categorical Exclusion (CE), including the strict time limit and operational restrictions contained in CE-32.

CE-32 can only be used for projects lasting 1 year or less, including all reclamation activities. The Plan of Operations states: "The project will begin immediately upon authorization and last for one year or less, including completion of reclamation. The proposed start date of operations is April 1, 2027, and the estimated completion date is March 31, 2028." (Plan of Operations, pg 1). However, the Plan also states that as part of reclamation, "Revegetated areas will be monitored once per year for two years to confirm revegetation success." (Plan of Operations pg 19). As such, it is clear that reclamation activities will extend beyond a one-year period, and so the Forest Service cannot authorize the proposed Plan under CE-32.

Also, based on the proposed project, and its significant impacts to important environmental resources, such as listed species, the specially designated Allan Mountain IRA, cultural/historical sites/areas, floodplains/wetlands, and other "extraordinary circumstances" listed at 7 C.F.R. §1b.3(f), the agency cannot apply any CE and must prepare, at a minimum, a draft Environmental Analysis (EA) for public review and comment.

The Bitterroot Water Partnership maintains that, in light of (1) complete lack of assurance that activities proposed in the Plan will *not* have significant impacts and (2) extraordinary circumstances exist to require an EA, review of the Plan under a Categorical Exclusion is insufficient. An Environmental Assessment must be conducted.

- Categorical Exclusions represent a "more expedited track available for a limited set of agency actions . . . 'that normally do not have a significant effect on the human environment.'" *Earth Island Inst. v. Muldoon*, 82 F. 4th 624, 632 (9th Cir. 2023) (quoting 40 C.F.R. § 1501.4(a)). Invoking an exclusion allows an agency to avoid preparing an

EIS or EA so long as no "extraordinary circumstances" indicate that the action will nonetheless have a significant environmental effect.

- “If an agency is unsure whether its proposed action will have significant environmental impacts, it may first prepare an EA [environmental assessment].” *Envtl. Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 872 (9th Cir. 2022).
- Under § 220.6, "A proposed action may be categorically excluded from further analysis and documentation in an EIS or EA only if there are no extraordinary circumstances related to the proposed action.”

Per 7 CFR 1b.3(f)(1), resources to screen for when considering extraordinary circumstances may include, *but are not limited to*:

- I. Federally listed threatened or endangered species or designated critical habitat or species proposed for Federal listing or proposed critical habitat;
- II. Flood plains, wetlands, or other such sensitive areas;
- III. Special sources of water, such as sole-source aquifers, wellhead protection areas, municipal watersheds, or other water sources that are vital in a region;
- IV. Areas having formal Federal or state designations, such as wilderness areas, parks, or wildlife refuges; wild and scenic rivers; marine sanctuaries; national natural landmarks; inventoried roadless areas; or national recreation areas;
- V. Specially managed areas, such as designated research or experimental areas, coral reefs, coastal barrier resources, or, unless exempt, coastal zone management areas;
- VI. Prime, unique, or important farmland as defined by and subject to the provisions of the Farm Protection Policy Act;
- VII. Property (e.g., sites, buildings, structures, and objects) of historic, archeological, or architectural significance, as designated by Federal, Tribal, State, or local governments, or property eligible for or listed on the National Register of Historic Places; or
- VIII. American Indian and Alaska Native religious or cultural sites.

Your decision must be based on the nature of the actions proposed and in the context of the potentially affected environment and be informed by interdisciplinary review. Several of the resources listed at 7 CFR 1b.3(f)(1) are present in the potentially affected environment for this project. In our comments, BWP will elaborate on the following extraordinary circumstances. Elements of these circumstances have a cause-effect relationships with the activities and/or lack of precautions described in the Plan:

- I. Federally listed threatened or endangered species or designated critical habitat or species proposed for Federal listing or proposed critical habitat.
 - a. The potentially affected environment for this project includes the presence of and/or designated critical habitat for ESA-listed bull trout and westslope cutthroat trout.
- II. Flood plains, wetlands, or other such sensitive areas.
 - a. The West Fork of the Bitterroot River, and its headwaters (site of proposed activities) host sensitive riparian areas that could be affected by changes in hydrology, surface water pollution, and increased sedimentation stemming from proposed actions.
- III. Special sources of water, such as sole-source aquifers, wellhead protection areas, municipal watersheds, or other water sources that are vital in a region.
 - a. Painted Rocks Reservoir and the West Fork of the Bitterroot River support communities throughout the Bitterroot. Proposed actions threaten these special sources of water through potential ground and surface water contamination.

Importantly, the proposed Sheep Creek Project has fueled significant public interest and controversy resulting in strong public opposition to the Plan, including among local elected officials, and a genuine request for a scrutinous, transparent, and public-informed review of the Plan.

The USFS cannot reasonably conclude there are no extraordinary circumstances or significant environmental effects when the Plan does not provide adequate baseline information, impact analysis, or site-specific or activity-specific detail to support that determination.

Per USDA's NEPA regulations at 7 CFR 1b.3(f), when applying a CE, the Forest Service shall consider relevant resources in the potentially affected environment for which an extraordinary circumstance may exist. If there is uncertainty regarding the degree of effect from the proposed action on the relevant resources, an Environmental Assessment (EA) is warranted. If it is determined that there is a reasonably foreseeable significant impact, then an Environmental Impact Statement (EIS) is warranted.

For this project, the complete operational footprint needs to be analyzed, not just the acres of disturbed ground, including the downstream watershed connected to the project area (Sheep Creek, the West Fork of the Bitterroot, Painted Rocks Reservoir, and the Bitterroot River), the lands under the flight path between the project area and the location(s) where bulk materials will be transported, and the ground transportation route used to transport materials to the lab for testing.

At a minimum, the Forest Service should require an Environmental Assessment before making any approval decision for this Plan.

Unprecedented Case - Significant Effects Unknown

Categorical Exclusions represent a "more expedited track available for a limited set of agency actions . . . 'that normally do not have a significant effect on the human environment.'"

Only one other dedicated rare earth mine, Mountain Pass Mine in California, has operated in the United States of America ([source](#)). If rare earth mines are so infrequently occurring in the USA, so too is the exploration process that proceeds potential mine development. The Forest's review of plans to conduct heavy exploration for REE in our publicly-owned lands must be completed with extra attention and rigor.

In other words, the Forest Service, specifically the Bitterroot National Forest, lacks experience in their interpretation and rigorous review of rare earth exploration proposals. Only by taking a hard look at baseline conditions and proposed activities, and by rigorously analyzing potential cause-effect relationships between proposed activities and natural resources the Forest manages, can the Forest determine that activities will not have significant effect on the environment. This first-time, high-risk, publicly controversial proposal to conduct REE exploration at the headwaters of the Bitterroot River is wholly unfit for review under a Categorical Exclusion. If an agency is unsure whether its proposed action will have significant environmental impacts, it must first prepare an EA.

There is enough data-supported reason to believe the proposed activities *will indeed* cause significant and lasting impacts to wildlife habitat, water quantity and quality, cultural values, recreation, and public safety. The Forest can best serve the Bitterroot and our Nation's public lands and waters by deciding to carefully review this Plan through an Environmental Assessment.

An open, transparent process is critical to retaining public trust in the Forest Service's decisions for this and future projects within the West Fork Ranger District. We strongly encourage the Forest to conduct a robust environmental review process that fully complies with the National Environmental Policy Act (NEPA).

Major Deficiencies & Extraordinary Circumstances

Risks to Water Quality & Quantity

The Draft Plan is vague or silent regarding water handling or monitoring, how mine waste would be managed, area geochemistry, and the potential interception of radioactive materials and pollutants like asbestos. The Project's description of "bulk sampling" is essentially mining activity and would expose subsurface rock in an area that could contain sulfide minerals and create the potential for acid rock drainage (another reason why this Project does not qualify for the limited CE-32). For example, at Location #1 the Plan states:

To facilitate bulk sampling, a series of blast holes will be advanced in the sidewalls of the adit using jack-leg drills along the carbonatite vein. Explosives will be placed in the holes and a controlled blast deployed to fragment the rock. Blasting will generate waste rock and mineralized rock. Waste rock will be placed within an existing void space (offshoot) on the south side of the adit tunnel and/or will be placed on the ground in the tunnel as road base. Mineralized rock will be hauled out of the adit and placed into super sacks for offsite transport. Approximately 1,500 short tons of bulk material will be generated in the first season in 2026 and approximately 1,500 short tons of bulk material generated in the second season in 2027. Bulk material samples will be collected by helicopter daily and flown to the truck parking / interim staging area, where they will be transported to a lab for testing. The project goal is to collect a total of approximately 3,000 short tons of bulk material over the course of the exploration program for testing.

BWP incorporates by reference, and expressly supports, the substantive comments and concerns raised by Dr. Philip Ramsey on September 10. We emphasize several of those concerns below.

Lack of Adequate Baseline Data

The Plan lacks the necessary baseline data needed for the agency, the state of Montana, and the public to evaluate the risks posed by proposed actions. Baseline data collection and rigorous modeling of all possible impacts to water resources must be required to inform Forest Service decision-making. Before proceeding with any decisions, the Forest Service must require the proponent provide comprehensive baseline characterization of potentially affected waters, including surface water quality (temperature, turbidity, sediment, nutrients, and metals), seasonal and interannual flow variability, groundwater quality and levels, groundwater flow paths and connectivity to surface waters, flows and volumes in springs, seeps, and wetlands, and applicable state water quality standards and designated beneficial uses.

Once adequate baseline data is established, ongoing monitoring throughout the life of the project - from exploration to the project's end - must be required. If the Forest Service authorizes this Plan, it must require a detailed monitoring plan that includes pre-disturbance baseline

monitoring, ongoing operational monitoring, and post-closure monitoring for surface waters, groundwater, springs, and seeps that may be affected by the project. Monitoring must detect both short and long-term trends or changes. The monitoring plan must also clearly identify thresholds and standards, which, if exceeded, require a change or suspension of project activities. Adaptive management cannot occur without a detailed, enforceable monitoring plan.

Zero Commitments to Monitoring

The Plan states that: “no surface water or groundwater quality monitoring is necessary given the nature of the project and minimal surface disturbance (pg. 13). What evidence has USCM provided to support this determination? Has enough data been given to the Forest to earn the agency’s agreement? We find this to be an unreasonable assumption on many fronts. Proposed drilling, blasting, sumps, fuel storage, drilling additives, drill cuttings, and bulk-sample handling all present potential harm to the watershed, especially in the steep terrain. Furthermore, the proposed sump and water re-use system presents a significant threat of environmental toxins contaminating ground and surface waters.

Without appropriate EA analysis of potential surface and groundwater impacts the USFS cannot reasonably conclude that the project will not have any significant environmental impacts or that extraordinary circumstances are absent. Without commitments to *monitoring*, neither can the USFS be confident post-project that no significant impacts have been caused, nor can the Forest enforce appropriate reclamation commitments.

A steady trail of false claims from (see ‘Extraordinary Public Controversy’) USCM has dismayed the public and should prompt the USFS to treat USCM with scrutiny, not automatic trust.

Insufficient Characterization of Rock and Pollution Potential

The hazardous materials section focuses on the chemicals that will be brought to the site. It gives no attention to hazards inherent in the rock itself. The Plan does not provide geochemical information to determine the potential direct, indirect or cumulative effects of drilling. This information is necessary to determine whether significant impacts may occur.

USCM states in their Plan that “Blasting will generate waste rock and mineralized rock... The project goal is to collect a total of approximately 3,000 short tons of bulk material.” Yet the Plan includes no data to describe the potentially hazardous material present in this rock, despite the fact that USCM has access to this data. The Plan contains no discussion of asbestos, asbestos-form minerals, uranium, thorium, radium, radon, or radioactivity. The absence of these topics creates a public-safety concern. These properties are known to occur alongside targeted REE and have been documented at the Exploration site.

Two primary research sources indicate there are radioactive materials present at the proposed project site.

- In 2024, USCM published rock sampling results on their website. The report has since been removed but is attached in our comment (USCM ACTLAB samples 2024 - *attached*). The report proves that rock samples from the Sheep Creek project site with more than 10% rare earth elements average 567 ppm thorium, 81 ppm arsenic, and 105 ppm lead. Any ‘plain old’ rock would contain something closer to 11 ppm thorium, 3 ppm arsenic, and 26 ppm lead ([source](#), [source](#), [source](#)).
- A 1960 mining report on the geochemistry within rock around Sheep Creek ([Montana Bureau of Mines and Geology](#), pg. 27-28) reiterate that certain rock formations containing targeted rare earth elements also contain “slightly” or “highly radioactive materials”.

USCM seeks a bulk sample of high-grade material. To extract high grade material (10% or more rare earth elements), USCM will need to disturb rock that also contains elevated levels of toxins and/or radioactive materials. The 1960 report concerning the Sheep Creek claims describes “felted actinolite” in and near the carbonatite bodies. Felted actinolite may be asbestiform and, if so, would present a threat to our community through dust as outlined above. The Forest does not yet know whether this actinolite is asbestiform. If the dust contains asbestiform actinolite (asbestos), it may persist in the environment, and wind and forest fires can remobilize it, creating a lasting human health hazard.

The Forest should require USCM to disclose existing assays or mineralogical data, conduct screening for uranium, thorium, radium, radon potential, gross alpha/beta activity, and asbestos-form minerals.

The NEPA document for this project must fully characterize mineralized material, waste rock, drill cuttings, adit material, and dust for arsenic, lead, uranium, thorium, nitrate residues, leaching potential, and other contaminants before material is approved to be left underground, moved off site, dried in sumps, or used as road base. Depending on the concentration of radionuclides present, waste from the project’s mining and processing of Rare Earths may meet the definition for Nuclear Source Material. Should the waste contain more than .05% by weight of Thorium, Uranium, or in combination, an NRC license will be required (Title 10, Code of Federal Regulations, §40.4). We ask that the Forest disclose these data to the public or before approving any blasting, drilling, waste placement proposals, and off-site transport. Additionally, the Plan needs to outline how used and potentially contaminated water would be discarded.

Insufficient Plans for Groundwater Management and Potential for Contamination

Risks to, and from, groundwater are significant any time drilling or tunneling into the earth’s surface is proposed. Previous versions of USCM’s exploration plans anticipated intercepting

groundwater during adit excavation ([Source](#)). Although the current Plan fails to mention this, groundwater interception is still anticipated during Adit #1 excavation. The Plan fails to evaluate, or even mention, potential effects from groundwater interception on connected surface waters, springs, or wetlands.

Adit excavation and core drilling could intercept groundwater, transferring naturally occurring mineral constituents such as arsenic or other metals to water. Groundwater flow into and out of adits can persist indefinitely and cause chronic water quality impacts. In addition, seepage from infiltration through the proposed sumps could potentially impact groundwater downhill from the drill sites.

The project proposes disruptive activities within a sensitive wetland habitat, which is simultaneously a headwater stream to a municipal watershed. The project area drains into a water source uniquely vital for the region: Painted Rocks Reservoir. This reservoir collects 10 billion gallons of water (32,656 acre-feet) before delivering roughly 15,000 acre-feet of water to sustain in-stream flows for fish and wildlife and 10,000 acre-feet to irrigate working lands ([source](#)). Proposed actions threaten these special sources of water through potential ground and surface water contamination.

The waste rock used to line the floor of the tunnel and side ditches at Location #1 will almost certainly contain low to medium grades of the target material, various elements, and significant amounts of explosive residue including TNT, RDX, heavy metals, nitrates and ammonia. Waste rock should be analyzed to determine the amount of metals, arsenic, selenium, asbestos, thorium, or targeted rare earth elements it contains. The Plan does not provide any geochemical characterization data to discern the likelihood that dissolved metals could be produced when water flows into the sump systems or when it flows over fractured waste rock and collects at the bottom of the bulk sampling site.

Basic hydrological characteristics of groundwater flows, and a study of the current chemical composition of groundwater in the project area must be required. The Forest Service must also require a rigorous water-balance evaluation to determine whether intercepted groundwater could overwhelm containment systems at any point during this project, including in the remediation phase, before making any authorizations. Based on available information, it is likely that proposed project activities could result in long-term impacts to groundwater in the West Fork Bitterroot watershed, affecting water quality for wildlife and agriculture. An EA is necessary to evaluate the likelihood and extent of these impacts before determining whether to authorize the Plan.

Under-Managed Fuel Storage

The Plan indicates a 1,000-gallon diesel tank would be installed at the interim staging area and a 200-gallon diesel tank at all Locations. This creates a potential risk of fuel spills contaminating surface water, groundwater, and soils, and otherwise negatively impacting the environment and human health. The potential for multiple 200-gallon spills, in this steep, sensitive, and critical headwaters environment is especially alarming. The Forest must analyze the risk, and consequences, of fuel spills. With any approvals, the Forest must require strict fuel storage risk mitigation measures.

To reduce the risks to water resources instigated by on-site fuel storage, tanks must be located outside flood - or landslide - prone areas and designed with fully lined, impervious secondary containment capable of containing at least 150% of total tank or container volume ([source](#)). Inspection, spill prevention, and response requirements must be clearly described and enforceable. Furthermore, because there are State regulations regarding fuel storage, the Forest Service should work closely with the state of Montana to ensure state regulators carefully oversee the project.

Missing Assurances for Handling of Waste Rock

The Plan describes that blasting will generate waste rock and mineralized rock (from Adit #1) and that waste rock will be placed in an existing void or used as road base inside the adit, while mineralized rock will be hauled out in sacks. The Plan does not explain how waste rock will be separated from mineralized rock. The Plan gives no method that protects against mineralized rock containing high levels of arsenic, lead, radioactive materials or asbestos being left as waste or being shipped as sample.

The Forest must require a waste rock storage plan that addresses the potential for water and environmental contamination posed by this material (see ‘Insufficient Plans for Groundwater Management and Potential for Contamination’ section). This storage plan should include information on sources of water that may encounter waste rock, seepage from waste rock, a drainage collection system, potential water treatment and disposal from the adit, and a monitoring plan to ensure any acid mine drainage is appropriately managed.

Additionally, the Plan proposes to haul up to ~17,000 lbs of excavated material at one time from the exploration site to Conner. The proposed travel route parallels the West Fork of the Bitterroot River for roughly 30 miles. Up to 340 of these trips hauling potentially harmful rock material carries the risk of spills into surface waters adjacent to haul routes (Forest Roads 91 and 5677, as well as Forest Service Trail 13862 – West Fork Road, Sheep Creek Road and Sheep Creek Trail, respectively). The Plan and EA need to investigate real risks of hauling potentially radioactive or contaminant-laden rock, harvested from USFS managed lands, spilling into nearby surface water.

Unidentified Source of Water

The Plan says drilling at Locations 2-4 may require up to 8,500 gallons per day, with most water recycled through lined 10 x 10 x 6 foot sumps. The Plan says water will come from a source outside the project area and will be slung to sites by helicopter. At minimum, USCM must demonstrate they have the adequate rights to the water required for this project, and disclose the nature, location, and limits of those rights. Under NEPA, the Forest Service must analyze the impacts of providing this water as a connected action, that would not occur if it weren't for the mine exploration proposal.

The Plan never names the water source. The Plan needs a water logistics table that identifies source, legal supply, truck and tank capacity, initial fill, daily make-up water, expected losses, and water loss contingencies.

Risks to Fish and Wildlife

Baseline data and NEPA analysis is necessary to characterize existing conditions and to analyze the potential impacts to fish and wildlife and their habitat. Exploratory drilling involves surface disturbance, increased noise and human activity, and the potential to increase multiple forms of pollution.

Below we emphasize that cause-effect relationships exists between project activities—blasting, waste rock storage and handling, helicopter use, vehicle use, chemical use and storage, and increased human presence in an undeveloped area—and the displacement, harassment, and mortality of multiple listed wildlife species, which meets the agency's definition of Extraordinary Circumstances that preclude a CE.

Threatened and Endangered Fish

Endangered Bull Trout

Once abundant in western Montana, in 1999, native bull trout (*Salvelinus confluentus*) were listed within the coterminous United States as threatened by the FWS pursuant to the ESA, as amended (64 FR 58910; 1 November 1999). Native bull trout can still be found in the upper Bitterroot River and the West Fork, with resident and adfluvial populations that migrate between Painted Rocks Reservoir and upstream tributaries. Sampling data for Sheep Creek in 2023 revealed that the stream's fishery composition included 38% bull trout. Similar bull trout percentages were found in the West Fork near Sheep Creek (FWP, 2025 "Federal Aid Job Progress Report, Federal Aid Project Number: F-113," pg. 46).

The Bitterroot River and the West Fork are listed as critical habitat for bull trout by the U.S. Fish and Wildlife Service ([USFWS 2010](#)) and are also within the Columbia Headwaters Recovery Unit ([USFWS 2015](#)).

NEPA review must consider the direct, indirect and cumulative impacts of the proposed activity on threatened bull trout, including, but not limited to, changes to water quality, stream flows, temperature, habitat, food availability, groundwater upwellings, hyporheic zones and connectivity. This review must also include foreseeable impacts from full-scale mining at the Project mine site. *Ksanka Kupaqa Xa'lcin v. United States Fish & Wildlife Serv.*, 534 F. Supp. 3d 1261, 1271 (D. Mont. 2021).

Studies conducted on the Bitterroot National Forest have found that, based on populations estimates, bull trout numbers are negatively correlated with the amount of fine sediment found in the stream ([*Montana Bull Trout Scientific Group, 1995*](#)).

Due to insufficient baseline data and completely under analyzed effects of exploration activities, the Forest cannot reasonably conclude that there are no potentially significant effects to bull trout. At a minimum, USCM should collect baseline data on the fish and wildlife that might be impacted and include plans to monitor those impacts. The current Plan fails to do either. Further, the presence of bull trout should require consultation with the U.S. Fish and Wildlife Service, the Montana Department of Fish, Wildlife & Parks, and the Confederated Salish and Kootenai Tribes regarding qualification under a CE and the underlying determination that no extraordinary circumstances exist. These entities would be able to provide the necessary information on the fishery, aquatic habitats, and the human investment in those resources that must be considered.

Species of Concern - Westslope Cutthroat Trout

Native Westslope cutthroat trout are present within the Project area streams and are likely to be impacted by Project activities. Westslope cutthroat trout (WCT) are on the Forest Service sensitive species list and are ranked S2 Imperiled in Montana (Aquatic sensitive species list Forest Service-Region 1, February 2011). Like bull trout, cutthroat trout depend on cold, clean, and highly complex headwater streams with abundant woody debris and pool cover. Both species are likely to be harmed by the increased sedimentation impacts, which can degrade or destroy spawning habitat for these species.

The upper West Fork of the Bitterroot is home to a metapopulation that is “one of the largest connected westslope cutthroat populations above a fish barrier (Painted Rocks Dam) in the state of Montana. It is a very important population from a westslope cutthroat trout conservation perspective” (FWP, 2025 “Federal Aid Job Progress Report, Federal Aid Project Number: F-113,” pg. 49). That metapopulation includes both resident and migratory WCT. Sampling data for Sheep Creek in 2023 revealed that the stream’s fishery composition included 56% WCT. Similar WCT percentages were found in the West Fork near Sheep Creek (FWP, 2025 “Federal Aid Job Progress Report, Federal Aid Project Number: F-113,” pg. 46).

With 160,227 angling days in 2023, the Bitterroot River is one of the most fished Rivers in Montana, with its ranking varying from 5th to 7th depending on the year ([MT FWP, Angling Pressure Survey 2023](#)) and westslope cutthroat trout are the fish that are most often caught (FWP, 2023 “Federal Aid Job Progress Report, Federal Aid Project Number: F-113,” pg. 13). The multi-million dollar fishing economy in the Bitterroot depends on a robust WCT population. Given that some of the healthiest WCT habitat, and the strongest genetic core for the species, exist in the West Fork, it’s paramount that the Forest take every measure possible to manage for preservation of this habitat. The future of WCT in the Bitterroot, and therefore our robust fishing economy, depends on you to do so.

Excavation of 6 million pounds of rock, combined with ~180 large truck movements along USFS roads to transport rock, will increase sediment pollution to the West Fork of the Bitterroot River. The West Fork is already threatened by sediment pollution. Existing roads contribute more than 3,000 tons of sediment to the River each year. Montana DEQ and the Bitterroot Watershed Restoration Plan call for a 60% reduction in sediment from surrounding roads just to meet basic water-quality needs (Bitterroot Watershed Restoration Plan, pg. 21).

Due to insufficient baseline data and completely under analyzed effects of exploration activities, the Forest cannot reasonably conclude that there are no potentially significant effects to WCT. The presence and disproportionately high value of the existing WCT and bull trout populations in the West Fork of the Bitterroot, as state and federally identified sensitive and ESA species, present extraordinary circumstances and warrants an Environmental Assessment of this Plan.

Other Wildlife

Other culturally important wildlife and ESA-listed species exist in the environment that can be potentially impacted by this Project, including elk, grizzly bear (ESA-listed), lynx (ESA-listed), and bighorn sheep. Cause-effect relationships exist between Plan activities such as increased air and road traffic, contamination of ground/surface water, and general disturbance to critical habitat and these species from activities such as 3,000 helicopter flights or thousands of hours of noise from blasting, drilling, and large diesel generators.

Under an EA, a robust environmental review should include baseline data collection in the form of range and habitat surveys for species and their known prey, satellite imagery on forest structure and successional stages, and migration corridor mapping *before* project implementation and *before* any irreversible or irretrievable commitment of resources are made.

BWP incorporates by reference, and expressly supports, the substantive comments and concerns related to these wildlife raised in the comment letters submitted to the Forest Service by the

Ravalli County Fish and Wildlife Association (September 9), Wild Montana (August 27), Clark Fork Coalition (September 11) and the Montana Wildlife Federation (September 11), and American Rivers (September 11).

Risk to Recreation Resources

The Bitterroot National Forest manages for recreation resources. Camping, hiking, fishing, hunting, and other outdoor recreation activities are common in and adjacent to the project area and would be negatively impacted by the proposed project activities.

Blasting, drilling, intensive helicopter use (3,000 flights), trucking (~180 days of, 600+ trucking trips), and potential safety closures will likely reduce public access, either directly or indirectly. As part of its analysis, the Forest Service should consider the extent and duration of access restrictions and closures and require mitigation measures to reduce impacts on public access to National Forest lands.

Extraordinary Public Controversy

Additionally, and a point BWP emphasizes, public controversy around the proposal is extraordinary. To date, multiple public meetings have gathered 600 - 700 people *at once* in opposition to this proposal ([source](#)). In a community our size, this degree of shared concern is significant.

In their statement of opposition to this proposal, Ravalli County Commissioners have urged for a rigorous review ([source](#); [source](#)). Montana's congressional representatives have also opposed any fast-tracking of permitting for this Proposal ([source](#)). Other local elected officials and representatives, including Representative David Bedey, also urge for a rigorous review of this controversial proposal ([source](#)). In their management of our public lands, the Forest Service has a duty to fully review this Plan, which means conducting a review that is a proportional response to the extent of public concern.

The extraordinary level of documented public concern regarding the proposed project should also be considered as highly relevant to the Forest Service's determination of whether the potential environmental effects are sufficiently understood to justify reliance on a categorical exclusion. The agency should not use a CE to avoid meaningful environmental analysis where substantial questions exist regarding potential impacts to water quality, fisheries, wildlife, and other resources and where those concerns are supported by substantive information submitted by affected communities, local governments, conservation organizations, and technical experts.

Public controversy is high due to the following circumstances.

1. Sensitive Headwaters Location of Proposed Exploration Site

The proposed exploration site sits squarely in the headwaters of the Bitterroot River. More specifically, exploration activities would occur in the headwaters of the West Fork of the Bitterroot River, whose waters flow into Painted Rocks - a 10-billion-gallon reservoir – before reaching the Bitterroot River with exceptionally cold, clean water.

Location matters, and this is a bad spot for a notoriously disruptive and polluting rare earth element mine. REE Mines and their managing companies have a track record of harming communities and degrading environments; “irrevocably [changing] the lifestyles of residents” by leaving permanent acidic waste and other pollutants in drinking and natural waters, among other impacts ([source](#)). The impacts from REE mines begin with impacts from REE Exploration Projects like that proposed at Sheep Creek.

With this trend well-documented, agency review of proposed activities – *starting with exploration activities* – must be completed with the greatest attention to detail possible.

2. Resource-Dependent Downstream Communities

A healthy, protected Bitterroot River is a central component to our downstream communities. It's the foundation for where people live, work, and play.

Roughly 1 in 5 jobs in Ravalli County, or 3,715 jobs, are in sectors that poorly executed REE exploration at Sheep Creek could most affect: Accommodation, Food Service, Tourism, Recreation, and Agriculture ([Source](#)).

- Our agriculture economy has 1,400 farms with total sales of nearly \$41 million (Ravalli County 2017 USDA Agricultural Census).
- Our tourism and recreation economy generates \$67 million and 746 direct jobs. Other jobs benefit indirectly from the tourism and recreation economy ([ITRR, 2023, pg 28](#)).
- Ravalli County’s fishing economy, which includes resident *and* non-resident angling, is a cornerstone economy and cultural value. The economy depends on cold clean waters to sustain trout habitat. The exceptionally cold and clean water originating from the headwaters of the West Fork is critical for the trout populations that sustain this economy.
 - If the average *non-resident* river angler spends \$861.22/day (MFWP, 2024) and there are 59,842 non-resident angling days on the Bitterroot (MFWP, 2023), this portion of the economy alone generates over \$50 million dollars.
 - *Residents* account for over 90,000 angling days (MFWP, 2023)

In other words, community values for the economy and quality of life that the West Fork of the Bitterroot River supports are exceptionally high and so, too, is the level of concern for an under-

analyzed Sheep Creek exploration project situated squarely in the headwaters of the West Fork. What happens at the proposed Sheep Creek exploration site won't stay there. Negative impacts will travel downstream, to our communities, through tens of thousands of people, and the consequences will be felt by those of us who live here, whose families and businesses depend on clean water.

USCM proposes unproven, risky and under-considered activities in their Plan. The people, economies, and traditions of the Bitterroot depend on the Forest to review proposed activities with the greatest scrutiny possible, so the Forest can make truly informed decisions about how and if certain activities can proceed without negatively affecting the human environment.

The people of the Bitterroot have been adamant in this request that the Forest help safeguard the lands and waters that sustain us.

3. Lack of Trust for Operating Company, US Critical Materials

We cannot trust the company that submitted this Plan or that the assurances made within are reliable.

US Critical Materials publicly stated, “Trust should be earned through data, transparency, and accountability.” (December 23, 2025, CEO Scott Osterman - [source](#)). BWP and the Bitterroot community agree - but have seen no attempt from USCM to honor that statement. USCM has ignored dozens of emails and calls from concerned citizens and organizations. USCM has made no efforts to communicate with County Commissioners between submission of the December Plan until after the County Commissioners issued a statement fully rejecting their Plan ([source](#)).

Commissioner Burrows explained that, “[USCM] made a commitment to our community and to us, to reach out and work with us... “They have not done that” (Ravalli Republic, August 11, 2026 - [source](#)). USCM has hosted no public meetings with stakeholders, or made any attempts at gathering input from locals, despite repeatedly assuring officials they would do so.

USCM states they seek to operate within Montana's tradition “of balancing responsible resource development... through scientific collaboration and regulatory compliance” ([USCM Sheep Creek Webpage](#)), then went to the Montana DEQ with a request that they be exempt from the state's Mineral Reclamation Act requirements (Daily Montanan, 2026, [source](#)).

USCM said the “...responsible path forward is neither automatic approval nor reflexive rejection. It's disciplined evaluation – grounded in science, governed by law, and informed by the voices of the people who care most about this place,” (Bitterroot Star, December 23, 2025, CEO Scott Osterman - [source](#)) then appear to have re-written the original draft plan in attempt to secure a Categorical Exclusion, the least rigorous level of review available.

USCM's CEO said that “baseline and continuous monitoring of water, air, and wildlife will be publicly available, potentially in real time... If data shows unacceptable impacts, the project

stops. Period.” (Bitterroot Star, 2025, CEO Scott Osterman, [source](#)). But their Plan asserts, without data, that baseline monitoring isn’t needed.

With a robust collection of USCM actions that contradict their statements, how can we trust the assurances they present in the Plan of Operations? When the interested applicant has this visible history of false claims and community mistrust, the Forest has the responsibility and discretion to apply an Environmental Assessment to this Plan.



Figure 1. 700+ Community Members attend public meeting hosted by Ravalli County Commissioners in December, 2025. Based on observation of statements made during Public Comment, all who spoke opposed the proposed project.

Closing Comments

When it comes to protecting our waters and the quality of life for our resource-dependent communities, any proposal to conduct disruptive activities in the Headwaters of the Bitterroot must undergo a robust analysis and meet the highest, most rigorous standards. The people who will be impacted need to be heard. The future of the Bitterroot deserves more than a "just trust us" from a company that has repeatedly given us every reason not to.

Based on the information provided in the current Plan, there is simply no way to determine that the impacts will be insignificant. Certainly, a higher level of environmental review is warranted.

We urge the Bitterroot National Forest to act conservatively and judiciously and to uphold a transparent process with robust public engagement. We emphasize that a CE is a wholly inappropriate level of NEPA analysis for this project. Because the full significance of the project's impacts are unknown, and because multiple extraordinary circumstances preclude the use of a CE, we respectfully urge the Forest Service to review the current Plan through and Environmental Assessment.

Sincerely,

A handwritten signature in cursive script that reads "Heather Barber".

Heather Barber
Executive Director

406-375-2272 | heather@bitterrootwater.org

A handwritten signature in cursive script that reads "Alex Ocañas".

Alex Ocañas
Manager of Community Conservation

406-375-2272 | alex@bitterrootwater.org